

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

MICHAEL J. BANKS, et al.)	
)	
Plaintiffs,)	
)	Cause No. 4:13-CV-02158
vs.)	
)	
FRANCIS G. SLAY, et al.)	
)	
Defendants.)	
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CO-COUNSEL ROMINES' RESPONSE TO ORAL ARGUMENT

Re: *Banks v. Slay, 4:13-cv-02158-ERW,*
March 23, 2016 Summary Judgment Hearing

Dear Judge Webber:

I apologize that I was unable to attend the hearing for summary judgment in the above referenced case. Mr. Herman has briefed me on the arguments advanced by the defendants, and I must respond to Defendants' argument that there is no state case affirming that judgment against a St. Louis City officer, named in his official capacity, must be paid out of City of St. Louis funds.

In fact, in *Hill v. City of St. Louis*, 371 S.W.3d 66, 71 (Mo. App. E. Dist. 2012 – Crane, Romines and Clayton), the Eastern District of Missouri Court of Appeals confirmed as a correct statement of the law, Plaintiffs' argument to the jury that if it entered a judgment against St. Louis Sheriff Murphy in his official capacity, he would “not pay any part of it out of his own pocket,” citing *Kentucky v. Graham*, 473 U.S. 159, 166, 105 S.Ct. 3099, 87 L.Ed.2d 114 (1985) for the proposition that “[W]hile an award of damages against an official in his personal capacity can be executed only against the

official's personal assets, a plaintiff seeking to recover on a damages judgment in an official-capacity suit must look to the government entity itself.”

I hope this additional citation is useful to you in your decision in this case.

Very truly yours,

/s/ Kenneth Romines

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 25, 2016, a true and correct copy of the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court’s electronic filing system upon the following counsel of record:

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By: /s/ Robert Herman